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In re Application of
Sumi et al.
Application No. 10/620,361
Filed: July 17, 2003
Attorney Docket No. Q76615

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OFFICE OF PETITIONS

DECISION GRANTING PETITION
UNDER 37 CFR 1.53

This is a decision on the petition filed September 15, 2003, under 37 CFR 1.182, which is properly treated as a petition under 37 CFR 1.53(e)(2) requesting that the above-identified non provisional application be accepted as complete and accorded a filing date of July 17, 2003.

The petition is granted.

The instant application papers were deposited on July 17, 2003. However, on September 10, 2003, the Office of Initial Patent Examination (OIPE) sent a Notice stating that no filing date had been granted as these papers as filed appeared to lack the (one) drawing required by 35 U.S.C. § 113 that was referred to in the specification.

In reply, the instant petition was filed on September 15, 2003, accompanied by a copy of the one sheet of missing drawing. Petitioners assert, as evidenced by the accompanying copies of an itemized transmittal letter and an itemized postcard receipt, both bearing a USPTO date stamp dated July 17, 2003, that 1 (one) sheet of drawing was among the papers received in the USPTO on that date for the instant application. Since an adequately itemized receipt serves as *prima facie* evidence of USPTO receipt of an allegedly missing item, the petition is granted. The Notice of September 10, 2003 was mailed in error and is vacated. The USPTO regrets the error, and its misplacement of the drawing sheet. Since petitioners also filed a drawing on September 3, 2003, which facially appears to be of better quality, this will be used for further processing.

The \$130 petition fee has been credited to counsel's deposit account No. 19-4880.

OIPE is instructed to further process this application as a complete provisional application with a filing date of July 17, 2003, and an indication that one drawing sheet was present on filing, using the one sheet of drawing filed September 3, 2003.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-1820. Telephone inquiries related to OIPE processing should be directed to the OIPE hotline at (703) 308-1202.

Brian Hearn
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy